

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Montana State Office

5001 Southgate Drive, P.O. Box 36800

Billings, Montana 59107-6800

<http://www.mt.blm.gov/>

In Reply To:

4100(923)P

December 29, 2003

EMAIL TRANSMISSION - 12/29/03

Instruction Memorandum No. MT-2004-015

Expires: 9/30/05

To: State Management Team

From: State Director

Subject: Memorandum of Understanding (MOU) with the Montana Grass
Conservation Commission

On December 14, 2003, an MOU between the Bureau of Land Management and the Montana Grass Conservation Commission (MGCC) was finalized. This MOU replaces an existing one with the State of Montana Department of Natural Resources and Conservation (DNRC), signed in 1981. As a result of legislation signed in 1999, all responsibility and authority held by the DNRC was transferred to the MGCC.

Field Managers should now initiate action to update and revise existing Cooperative Agreement(s) with the respective Cooperative State Grazing District(s) in accordance with the new MOU and existing regulation. This will provide Field Offices/Stations an opportunity to update existing agreements based on current regulation and authority.

Please provide the State Office with an opportunity to review your draft agreement prior to final signing.

A copy of the newly signed MOU is attached for your files and review. If you have questions, please contact Bill McIlvain at 406-896-5028.

Signed by: Martin C. Ott

Authenticated by: Merry Prestridge (MT923)

1 Attachment

1-Copy of the MOU with the MGCC (5 pp)

Distribution

Asst. FM Havre-1

Asst. FM Glasgow-1

MEMORANDUM OF UNDERSTANDING

Between

MONTANA GRASS CONSERVATION COMMISSION

And

BUREAU OF LAND MANAGEMENT

U.S. DEPARTMENT OF THE INTERIOR

MONTANA STATE OFFICE

I. PURPOSE

This Memorandum of Understanding is between the Bureau of Land Management, hereinafter called the Bureau, and the Montana Grass Conservation Commission, hereinafter called the Commission.

The purpose of this agreement is to create an atmosphere of cooperation and mutual trust between the Bureau and the Commission. A working agreement founded on these principles will allow the Bureau, the Commission and the Cooperative State Grazing Districts to achieve the objectives spelled out in the Federal Land Policy and Management Act, Public Rangelands Improvement Act, the Taylor Grazing Act and the Montana Grass Conservation Act.

II. DEFINITIONS

A. Cooperative State Grazing District (hereinafter called State District) - a district organized and operating under the provisions of the Montana Grass Conservation Act of 1939 as amended.

B. Bureau Field Office - An administrative subdivision of the Bureau of Land Management.

C. Cooperative Agreement - an agreement between the Commission, State Districts, and the BLM to foster coordination and cooperation in the management of State District lands and BLM public lands.

D. Public lands - those lands owned by the United States under the jurisdiction of the Bureau of Land Management.

E. State District Lands - all lands owned, leased or controlled by the State District or its members.

F. Multiple Use - the doctrine that a given piece of land may have many uses to people. (FLPMA - PL94-579 - Sec. 103 (c))

G. Montana Grass Conservation Commission (hereafter called Commission) was created in 1999, and was given the powers necessary or incidental to carry out the full purposes of the Grass Conservation Act.

III. POLICY

The Commission, State Districts, and the Bureau are interested in livestock grazing and the management of forage producing BLM lands. This Memorandum of

Understanding reaffirms that interest, but also recognizes that non-livestock uses (multiple-use) of BLM lands depend on the cooperation of many. Through consultation, cooperation, and coordination the parties will work to resolve management issues and conflicts which may occur.

To coordinate the use of public lands and the State District-controlled lands within the boundaries of Cooperative State Grazing Districts, the Commission, and the Bureau set forth the following policies, objectives and principles.

IV. AUTHORITY

The Bureau of Land Management, in accordance with the Federal Land Policy and Management Act, Public Rangeland Improvement Act, Taylor Grazing Act, the National Environmental Policy Act and the Commission under the Grass Conservation Act, Title 76, Chapter 16, Montana Code Ann., have similar purposes in providing for (but not limited to) the conservation, protection, restoration, productivity, and proper utilization of forage and rangeland resources.

V. RESPONSIBILITY

A. The Bureau

Regulations implementing the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), the Public Rangeland Improvement Act of 1978 (43 U.S.C. 1901), the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315n), the National Environmental Policy Act (42 U.S.C. 4321), and other applicable Federal Law regulate the management and use of the public lands. The Secretary of the Interior sets policies and establishes rules having the force and effect of law, which control and define the duties and authorities of Bureau officials. The Bureau may enter into cooperative agreements that are consistent with Federal laws and regulations. The Bureau must consider environmental implications of all actions planned or taken, as required by applicable law. The following major principles result:

The Bureau will manage the public lands in accordance with the Congressional directives provided in the Federal Land Management and Policy Act, the Public Rangeland Improvement Act, the National Environmental Policy Act and the Taylor Grazing Act, as well as other public land laws. In furtherance of these directives, the Bureau will manage the grazing use of the public lands based on the principle of multiple use and sustained yield in accordance with applicable land use plans, while providing for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands.

1. Grazing preferences are attached to base property owned or controlled by a permittee or lessee.
2. Federal grazing preferences and the use and enjoyment thereof may be established, revoked, reduced or otherwise modified under the provisions of the Federal Land Policy and Management Act, Public Rangeland Improvement Act, the Taylor Grazing Act, in accordance with the grazing regulations.

B. The Commission

The Commission supervises and coordinates the formation and operation of State Districts. The Commission, on behalf of and with the consent of State Districts, is empowered to cooperate and enter agreements on behalf of a State District to administratively promote and foster cooperation with the Secretary of the Interior through the federal agencies. State Districts are a form of grazing administration set up to aid in the unification or control of all grazing lands within the state where ownership is diverse and the lands intermingled. They promote stabilization of the livestock industry and the improved management and protection of dependent commensurate ranch properties.

C. Coordinated Administration

In order that the highest possible degree of coordination can exist, the State District(s) will designate a representative or key-contacts and the BLM Field Office Manager(s) will furnish a representative to meet with the State District Boards at their regular meetings. The representative from the BLM will confer with the boards on all matters concerning the administration of the lands involved in this agreement, such as considering applications, issuance of permits, actions regarding excess and unauthorized use, range improvements, allotment management plans, etc.

VI. MANAGEMENT CONSIDERATIONS

A. Cooperative agreements

1. A cooperative agreement may be entered into between the Commission and a BLM Field Manager, on behalf of and with the consent of any State District. The cooperative agreement, which implements this memorandum of understanding, provides the opportunity to identify and cope with unique operational problems peculiar to individual State Districts and the BLM Field Office.
2. Each agreement will be effective upon consent by the State District, and approval by the Commission and the BLM Field Office. Provisions for review, updating and cancellation will be the same as for this Memorandum of Understanding.
3. Once consummated, a new Cooperative agreement, together with this memorandum of understanding, supersedes any existing cooperative agreement between the Bureau and an individual State District.

B. Grazing Capacities and Levels of Uses

1. Allowable grazing authorizations, and forage allocations will be determined and made for all BLM allotments based upon assessment and monitoring in accordance with BLM land management plans.
2. Where BLM has authorized grazing of BLM lands, and these lands are intermingled with and grazed at the same time as State District lands, the BLM, the State District and the affected permittees or lessees, through consultation, cooperation and coordination, shall determine the time, intensity and duration of grazing of the intermingled lands.

3. The State District will make the final determination of grazing capacities on all other State District lands.

C. Management Plans

1. Allotment management plans are provided for in the Federal Land Policy and Management Act, Public Rangeland Improvement Act and Taylor Grazing Act. Allotment management plans may be cooperatively developed between the affected permittees or lessees involved the State Districts and the BLM Field Manager.
2. A State District may develop allotment management plans on its own initiative using technical information made available by the Bureau and others. Bureau review and approval of an AMP, is required where public lands are involved.

D. Environmental Impact Statement

When the Bureau undertakes to write Environmental Impact Statement on any of the federal/public lands within State Grazing Districts, the Bureau will notify the Commission and the Grazing District involved prior to drafting the EIS and will call for their comment and review during each stage of the EIS process.

E. Trespass

In the event a trespass is discovered or brought to the attention of either party, the other party will be immediately notified and immediate action will be taken to resolve the trespass in accordance with the Cooperative Agreement.

F. Communication

The BLM and Commission agree to keep each other informed at least annually of all ongoing programs and activities. Each party also agrees, in the event special actions require immediate attention, they will notify the other party before such action is taken.

VI. ADMINISTRATIVE CONSIDERATIONS

A. Reviewing and Updating

The parties to this memorandum of understanding will meet at least once a year to review progress and/or problems and will review and update this memorandum as changes in policy and other needs as required.

B. Effective Date - Termination

This Memorandum of Understanding will be effective when signed by the parties and will continue in effect unless terminated by the parties involved. Further, this memorandum may be terminated by either party after thirty (30) days notice. Cancellation or termination of the MOU shall not affect existing grazing permits.

1. Nothing in this MOU will be construed as affecting the authorities of the participants or as binding beyond their respective authorities.
2. Nothing in this MOU shall obligate the BLM to expend appropriations or to enter into any contract or other obligation. Specific work projects of activities that involve the transfer of funds, services, or property between the parties to this MOU will require the execution of separate agreements or contracts, contingent upon the availability of funds as appropriated by Congress. Each subsequent agreement or arrangement involving the transfer of funds, services, or property between the parties to the MOU must comply with all applicable statutes and regulations, including those statutes and regulations applicable to procurement activities, and must be independently authorized by appropriate statutory authority.

Bureau of Land Management

By /s/ Martin C. Ott
State Director-Montana

Date 12/10/03

Montana Grass Conservation Commission

By /s/ Bill Loehding
Grass Commission - Chairman

Date 12/14/03